

EXHIBIT 1

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9 IN THE UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF CALIFORNIA

11
12 UNITED STATES OF AMERICA,
13 Plaintiff,
14 v.
15 ERIC MCDAVID,
16 Defendant.

CASE NO. 2:06-CR-0035 MCE EFB P
DECLARATION OF ELLEN V.
ENDRIZZI IN SUPPORT OF
GOVERNMENT'S OPPOSITION TO
DEFENDANT'S SECTION 2255
MOTION AND REQUEST FOR
DISCOVERY

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18 I, Ellen V. Endrizzi, hereby declare under penalty of perjury that the following is true and
19 correct to the best of my knowledge and belief:

20 1. I am currently employed as an Assistant United States Attorney with the United States
21 Department of Justice, Office of the United States Attorney for the Northern District of Georgia, and
22 have been so employed since October 2011. For the period of March 2005 through October 2011, I
23 was employed as an Assistant United States Attorney with the United States Department of Justice,
24 Office of the United States Attorney for the Eastern District of California.

25 2. I was co-counsel with R. Steven Lapham in the matter of the United States v. Eric
26 McDavid, case number 2:06-CR-35-MCE, before the United States District Court for the Eastern
27 District of California.
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1 3. I conducted the examination of prosecution witness Zachary Jenson during Defendant
2 McDavid's trial.

3 4. As the examining counsel, I also conducted pretrial preparation sessions with Mr. Jenson.
4 However, it is my practice never to meet with a witness alone. As a result, during preparation
5 sessions with Mr. Jenson, there would have been at least one law enforcement officer present, and
6 possibly AUSA Lapham, and Mr. Jenson's counsel, Shari Rusk. As it has been at least six years
7 since meeting with Mr. Jenson, I cannot remember who was present at particular preparation
8 sessions or the specific content of those sessions, but I would never have questioned Mr. Jenson
9 about the case without another person in the room.

10 5. When I conduct witness preparation sessions, I tell the witness that "rule number one is
11 to tell the truth." I reiterate that "rule" frequently so that the witness understands that his or her
12 testimony must be the truth, given completely and accurately.

13 6. Mr. Jenson has submitted a declaration stating, "In my first meeting, one of the
14 prosecuting attorneys, after hearing my truthful reciting of the events which formed the charges,
15 became very angry and showed that they were physically very upset, in fact walked out of the
16 meeting." (Jenson Decl. p. 1). I do not recall the first preparation session, but it is my belief that
17 neither I nor AUSA Lapham would have become "very angry" with Jenson and shown physical
18 signs of being "very upset". I remember Mr. Jenson being young, quiet, and very concerned about
19 getting out of jail. I would describe him as being similar to a lost puppy. I do not become "very
20 angry" with or demonstrate that I am "very upset" with witnesses because I believe that behavior is
21 unprofessional. I certainly would not have displayed that kind of behavior with a young witness
22 who had very limited experience with the criminal justice system. Mr. Jenson also declares that one
23 of the prosecuting attorneys "walked out" of the meeting. When there are at least two members of
24 the United States' prosecution team present during a witness preparation session, it is not uncommon
25 for people to leave and reenter a preparation session. I cannot say for sure whether people did not
26 leave Mr. Jenson's first session.

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1 7. I did not pressure, cajole, or otherwise influence Mr. Jenson; nor did he express to me
2 that he was feeling that way. I told Mr. Jenson that his testimony should be the truth. If I believed
3 that Mr. Jenson was not telling the truth during the witness preparation sessions, I would not have
4 offered him as a witness at trial.

5 Dated: October 12, 2012

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ELLEN V. ENDRIZZI